

(1978) 09 AHC CK 0015
In the Allahabad High Court
Case No : Civil Revision No. 617 of 1977

Andrew Prakash

APPELLANT

Vs

Cantonment Board and Others

RESPONDENT

Date of Decision : 27-09-1978

Acts Referred:

Uttar Pradesh Public Services (Tribunal) Act, 1976 — Section 1(4), 4, 4, 6, 6(2)

Citation : (1979) AWC 6

Hon'ble Judges : Satish Chandra, C.J

Bench : Single Bench

Advocate : H.N. Sharma, for the Appellant;

Final Decision : Allowed

Judgement

Satish Chandra, C.J.—The applicant sued for a declaration that the termination of his service was wrongful. He also claimed arrears of salary etc. The suit was abated by the trial court in view of the U.P. Public Services (Tribunals) Act, 1976. The Plaintiff went up in revision but failed. He has hence come to this Court.

2. Section 6 of the Public Services (Tribunals) Act bars suits. It provides

6. Bar of suits—(1) No suit shall lie against the State Government or any local authority or any statutory corporation or company for any relief in respect of any matter relating to employment at the instance of any person who is or has been a public servant, including a person specified in Clauses (a) to (e) to Sub-section (4) of Section 1.

3. Section 4 provides for remedy directly before the Tribunal at the instance of a person who is or has been a public servant. Section 6(2) provides for abatement of pending suit. A suit is barred at the instance of a person who is or has been a public servant. If a person is a public servant, then the next condition is that the suit should not be against the State Government or any local authority or any statutory corporation or company. If both these conditions are satisfied, then the third condition is that the suit should be for any relief in respect of any matter

relating to employment. All these three conditions must co-exist before Section 6 will operate to bar a suit. Section 2(b) defines "public servant". It says

(b) "Public Servant" means every person in the service or pay of

(i) the State Government; or

(ii) a local authority not being a Cantonment Board; or

(iii)

iv)

4. It is apparent that an employee of the Cantonment Board is not a public servant as defined. Sub-clause (ii) excludes a Cantonment Board from the purview of the local authority. So even if the Cantonment Board is a local authority, its employees are not public servants within meaning of this Act. A suit at the instance of an employee of the Cantonment Board will not be barred.

5. In the present case it has been found that the Cantonment Higher Secondary School, Chakrata, in which the Plaintiff was employed as a Biology teacher, belonged to the Cantonment Board. If the school belonged to the Cantonment Board, the Plaintiff was, in law, an employee of the Cantonment Board. He was hence not a public servant as defined in the Act. The Act was not applicable to him. His suit could not hence be declared to have abated under the provisions of the Public Services (Tribunals) Act, 1976. The courts below committed material irregularity in abating it.

6. In the result, the revision succeeds and is allowed. The orders of the courts below are set aside, and the matter is remanded to the trial court for disposal of the suit in accordance with law after obtaining the record of the case from the Services Tribunal if it has already been sent there.

7. As no one has appeared on behalf of the opposite parties there will be no order as to costs.